

Indiana Court Times

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2007 Legislation of Interest to the Judiciary



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The 2007 Indiana General Assembly adjourned *sine die* on April 29, 2007. Some legislation attracting the most media attention concerned: temporary property tax relief, major transportation funding, cigarette tax increase, legislative pay raise and the state budget. But the Legislature also passed scores of other bills and we are highlighting some that are of interest to the judiciary. The Indiana

Judicial Center's full report on 2007 legislation may be read on the internet at the following address: <http://legislativeupdate.blogspot.com>.

Court costs and fines **S.E.A. 125, P.L. 156** **Effective July 1, 2007**

Allows a court to suspend payment of court costs and fines until completion of a convicted sentence, while maintaining jurisdiction until the costs and fines are completely paid. Allows a court to use contempt proceedings or wage garnishment to enforce its order for

payment of court costs and court-imposed fines and to collect a \$13 service of process fee.

Proof of mailing **S.E.A. 310, P.L. 208** **Effective July 1, 2007**

Provides that if a law or a rule requires a mailing by registered mail or certified mail, a person may use: (1) any service of the United States Postal Service or a designated private delivery service that: (A) tracks the delivery of mail; and (B) requires a signature upon delivery; or (2) delivery by an employee of the unit of government sending the notice.

Marion County juvenile detention center/ **Predispositional reports** **S.E.A. 347, P.L. 142** **Effective July 1, 2007**

• **Marion County juvenile detention center**
Moves control of the Marion County juvenile detention center from the Marion County juvenile judge to the executive committee of the Marion County judges.

continued on page 6

Supreme Court

Division of State Court Administration
www.in.gov/judiciary



In This Issue

2007 Legislation of Interest to the Judiciary ...1,	6-7
Cooperative Divorce: Not an Oxymoron	3-4
ICLEO Celebrates 10 Year Anniversary	4 & 8
Judge Gull Jumps with Golden Knights	5
Family Court Grant Applications Available	7
Court Awards CMS Contract to Tyler Technologies	8 & 10
Microfilming Records Benefits State and Genealogists	10
GAL/CASA Programs Receive Funding Increase	11
Indiana's Appointed Judicial Officers	12-13

An Open Invitation to Indiana Local Courts and Clerks: Job Postings on the Indiana Courts Website

We invite all Indiana state courts and court clerks to post job openings on the Indiana Courts Website at www.in.gov/judiciary/jobs. Submitted job openings must include a job title, description of the position, salary range, application instructions, a contact person, and an application deadline. All submissions must be made electronically, with the above information in an email or attached to an email in Word or WordPerfect format. Submissions should be sent to Lindsey Borschel, at lborschel@jtac.IN.gov.

Save a Tree and Stay Informed

If you would like to help save a tree and still stay informed, you may receive the Indiana Court Times via email, or you can access our Website, www.in.gov/judiciary/admin (click on publications). To have your name removed from our hardcopy mailing list contact Debbie Guthrie at dguthrie@courts.state.in.us.

State Court Administration Hosts Summer Intern

Jordan Fischer has joined the Indiana Court Times staff for the summer. Fischer will be assisting with editing, pagination and general production of the quarterly publication from May to July.



Jordan Fischer

Fischer also works with the photography department at the Indianapolis Museum of Art as a stock photographer and editor.

In the fall, Fischer will be a sophomore at Butler University, where he majors in English and journalism - with a news editing focus.

Fischer worked for the Greensburg Daily News in Greensburg, Ind., where he was a photographer, paginator, columnist and the senior writer.

"Journalism isn't about creating text to fill up your assigned 1.5 x 6 inch columns every day - it's about conveying information in a meaningful and useful way," Fischer said. "Whether one works for the New York Times, a student publication, or the

Indiana State Court Administration, there is always a need for print communication."

After Butler, Fischer hopes to pursue a master's degree.

Fischer will be working on the virtual tour project to photograph and film all local courthouses in the state of Indiana for viewing on the IndianaCourts Website.

"Working for the Supreme Court and Lilia Judson is an opportunity few students will ever get, and I'm very thankful," Fischer said.

Cooperative Divorce: Not an Oxymoron

Cindy Collier
Indiana Court Times

Divorce can end a marriage with both parties bruised and bloodied, but the biggest losers of all are often the children. Bartholomew Superior Court Judge Roderick D. McGillivray knew it didn't have to be that way, and along with fellow judges in Bartholomew County, he is committed to changing the tone and tenor of divorce cases. Right now the process focuses on the negative.

"The basic idea is you take a couple who don't want to be married any more and you put the two against each other," Judge McGillivray said.

Using a program developed by South Bend attorney, Charles Asher, Judge McGillivray asks parents to focus on the well being of their children and on their areas of agreement. The goal of cooperative divorce is to have the process be constructive and less adversarial. For example, a case caption that used to read *Kramer v. Kramer* now will read *In re the*

Kramer family.

"Cooperative divorce, it sounds like an oxymoron," he said. "It's an attitude change, not a rule change."

Judge McGillivray has parents go to Asher's website and answer questions in the privacy of their own home. The goal is to help the parents see the similarities of their wishes.

"You ask both parents where they want their kids to be in 20 years, and they will agree on almost everything. Then we work back from there," the judge said. "When we focus on the children, they agree on far more than they thought. Ultimately, the rest is just money."

The Web site <http://www.uptoparents.com> is for both the couples and their attorneys.

Judge McGillivray said parents have to be educated about the concept of cooperative divorce, and so do members of the bar.

"You must get the attorneys to buy into it," he said. "There are two kinds of at-



Bartholomew County is changing up the way it handles divorces to put kids first.

torneys - gladiators and counselors. Gladiators will destroy a couple and then help them pick up the pieces. What you get then is custody of a destroyed child. We want to eliminate that."

Currently the program is not countywide, but judges are consistently using the principles of cooperative divorce.

"Our goal is to have this implemented by August or September," he said.

By focusing on the children involved and reaching agreement, Judge McGillivray hopes divorcing spouses

will be able to see the advantage of ratcheting down their anger and seeing they have a choice.

"We can fight this out and be the biggest jerks in the world or we can cooperate—clearly one is better for the child. We can get along," he said.

Once that happens, the change can be lasting.

"This forces people into seeing where they agree," McGillivray said. "Once they start agreeing, they stop fighting."

continued on page 4

DIVORCE

continued from page 3

ing couples in the direction of “cooperative divorce?”

“In the end all you have to do is read the family law statute. The discretion is in the courts to do what is in the best interest of the child,” he said.

The process of educating local attorneys is already underway, and the judges

are making a DVD to explain the concept of cooperative divorce. Eventually, if there is adequate funding, they will make copies of the DVD available to all parties whenever a divorce is filed in Bartholomew County.

The important thing is for everyone to know this is how the court plans to approach divorce cases.

“This is how things are going to go in this county,”

Judge McGillivray said. “Judges aren’t going to have five-day custody battles hearing all the bad things. By the time you’re done you think neither (parent) should have custody.”

While a judge can’t change a person’s reactions, the cooperative divorce process encourages divorcing parents to put children first.

“If one (parent) is interested in getting along, you see they are thinking of the

best interest of the child,” Judge McGillivray said. “If one parent is using the child as a tool, that’s going to be a factor to consider.”

Ideally, the process should help people remember what they did right together and their common goals.

Judge McGillivray summed up this new concept with three simple words, “Remember the kids.”

Indiana CLEO: A Decade of Excellence

*Robyn M. Rucker
Indiana Court Times*

During the very first class of fellows associated with the Indiana Conference for Legal Education Opportunity (ICLEO) in the summer of 1997, baseball aficionado and law professor Don Gjerdingen pulled out a baseball and asked all 30 CLEO students to pen their signatures. Ten years later, on the day the 2007 class was selected, Gjerdingen presented the same autographed baseball to Indiana CLEO founder Chief Justice Randall T. Shepard.

It was a remarkable con-



Professor Don Gjerdingen presented Chief Justice Randall T. Shepard with a baseball signed by the first class of Indiana CLEO Fellows

nection to a program that has grown from a single class to a network of dozens of lawyers. This year marks the 10 Year Anniversary of the Indiana Conference for

Legal Education Opportunity Program. Chief Justice Shepard created the Indiana CLEO program in 1997 to increase diversity within the legal community

and to provide access to a legal education to those who have been traditionally underrepresented.

From its beginnings in 1997, many people have helped support and encourage this awesome undertaking. Plans are currently underway for various educational and social events to commemorate this momentous occasion.

These events will allow program supporters, alumni, and current students to come together to reflect upon and celebrate the impact of CLEO on their lives and the legal community. The 10 Year Anniversary

continued on page 8

Judge Gull Jumps with Golden Knights

Cindy Collier
Indiana Court Times

Allen Superior Court Judge Frances C. Gull recently traded her basic black judge's robe for a gold jumpsuit and received a new nickname – The Airborne Adjudicator.

The U.S. Army's Golden Knights bestowed the moniker on Judge Gull after she went skydiving with the world-famous parachute team. As news of her 11,500-foot parachute jump spread through the courthouse and the community, the judge has received many well wishes and comments from quite a number of folks who said they could never do it.

"Everybody has been very

supportive, but they think I'm crazy. Many people have told me they'd be too scared to do it," she said. "People have been telling me they would never do it, or, they tell me what they did."

The judge also has been whitewater rafting and found that pretty high on the excitement scale. But, she said that doesn't mean she would try any extreme sport.

"Somebody told me they went bungee jumping. I would never do that," she said. "I felt very safe because I went with the Golden Knights. This is what they do. They are the elite."

According to the Golden Knights, soldiers who want to become part of the unit must apply to attend the Assessment and Selection Program at the Team's home at Fort Bragg, N.C. Any enlisted Soldier can apply, but the qualifications are demanding, including a minimum of 150 freefall parachute jumps and a flawless military and civilian record. They must also be willing to attend the Army's Airborne School, if necessary.



Before jumping, Judge Gull had to suit up.



Shown here, Allen Superior Court Judge Frances Gull after a successful jump with the Golden Knights.

When Judge Gull made her jump at Ft. Knox, Kentucky, she did think her partner for the tandem jump looked a little young.

"When I told him that he told me he had done over 3,000 jumps," she said.

Gull also knew that the Golden Knights had done many jumps with notable civilians.

"People thought I should be scared, but I wasn't because I knew that I was in good company," said Judge Gull. "(Former) President Bush and Chuck Norris have made jumps with the Golden Knights."

Judge Gull also has family ties to the Army and parachute jumping. Her brother Guy Cutino was an Army jumpmaster. He died in a training accident in 1999, so she never had the chance to jump with

him. Influenced by his uncle, Gull's son, Sgt. Cody Gull, 23, also joined the Army.

Gull said one of the best things about the experience is being able to relive it whenever she wants. A videographer was with the group and recorded their jump.

"I have watched it and I can't believe it was me," she said.

While the experience will certainly last a lifetime, the entire jump took less than five minutes.

"You free fall for about a minute, and then you go from 140 miles an hour to about 50 miles an hour," said Judge Gull.

Judge Gull said one thing was sure: if she were asked to make the jump again, she'd say yes "in a second."

LEGISLATION

continued from page 1

• **Predispositional reports**

Permits a probation officer, other than the person who prepared the predispositional report, to be present at a juvenile delinquency dispositional hearing in certain cases.

State Budget

H.E.A. 1001, P.L. 163

Various effective dates

• **Automated Record keeping fee**

Requires the collection of the \$7.00 fee through June 30, 2011 instead of June 30, 2009.

• **Trial Court Reimbursement in Remand Cases**

State must reimburse a county up to \$50,000 for expenses of a new trial where a defendant is convicted, appeals, and the Court of Appeals or Supreme Court remands the case for a new trial. The Division of State Court Administration will administer the fund, which has an initial annual appropriation of \$1,000,000.

• **Magistrates**

Franklin Circuit Court Judge may appoint one full-time magistrate; Hamilton Superior Court Judges may jointly appoint an additional full-time

magistrate; and the judges of the Clark County Circuit and Superior Courts may jointly appoint an additional full-time magistrate.

• **Jackson County Courts**

Expands the Jackson Superior Court to two judges January 1, 2008.

• **Floyd County Courts**

Changes the Floyd County Court to a Superior Court, and adds an additional Superior Court on January 1, 2009, and establishes that the Superior Court will have a standard small claims and misdemeanor division.

Jury selection

H.E.A. 1287, P.L. 118

Effective July 1, 2007

Amends and repeals numerous statutes relating to jury selection and brings all jury assembly provisions into one chapter rather than three separate chapters, and makes the statutory provisions consistent with the Jury Rules. It also sets statutory requirements for city courts in assembling residents for jury trials, and gives flexibility to local governments for reimbursing jury expenses, including an allowance for parking fees to be paid in lieu of mileage.

Appointment of special prosecutors

H.E.A. 1291, P.L. 119

Effective July 1, 2007

Permits a circuit or superior court judge to appoint a special prosecutor if a previously appointed special prosecutor files a motion to withdraw or has become incapable of continuing in certain cases, and provides for service of notice of all pleadings and orders to the elected prosecuting attorney. It also changes the compensation for certain special prosecutors and amends the days of service for senior prosecuting attorneys.

Taxation; Public safety

H.E.A. 1478, P.L. 224

Various Effective Dates

• **Local Option Income Tax for Public Safety**

Allows a county to impose an additional CAGIT or COIT tax rate for "public safety" purposes, which for the judicial branch includes: the probation department of a court; confinement, supervision, and services under a community corrections program in certain cases; a juvenile detention facility; a juvenile detention center; and specific pension payments.

• **Parke County Capital Case Funding**

Allows Parke County to impose an additional CAGIT rate of not more than 0.25% to fund the costs of a capital trial that has been moved to another county and to repay money borrowed for that purpose.

• **Monroe County Juvenile Detention Center Funding**

Allows Monroe County to impose an additional COIT rate of not more than 0.25% to fund a juvenile detention center.

• **City and Town Courts—Judicial Salaries Fee**

Requires that the portion of the judicial salaries fees retained by a city or town be prioritized to fund city or town court operations.

State retirement medical benefits account

S.E.A. 501, P.L. 44

Effective August 1, 2007

Creates the state employee retirement medical benefit account for certain employees of the executive, legislative, or judicial branch of state government, state elected or appointed officers, members of the general assembly, elected officers paid by the state, and other officers who retire after June 30, 2007. The account is administered by the state

continued on page 7

LEGISLATION

continued from page 6

budget agency and specifies the amount of the employer's annual contributions and provides for an additional contribution in certain cases.

Senior Judge pay **H.E.A. 1291, P.L. 119** **Effective July 1, 2007**

Increases senior judge pay from \$50 to \$100 for each of the first 30 days of service in a calendar year and

from \$200 to \$250 for each day of service after the 30th day in that calendar year.

Judges' pensions **H.E.A. 1480, P.L. 68**

Effective July 1, 2007 and April 25, 2007 (§3)

Provides for a 2% increase of the monthly benefits paid to participants, survivors, and beneficiaries from the judges' 1985 retirement system after December 31,

2007 and another 2% increase after December 31, 2008. Allows service credit accrued by a full-time referee, full-time commissioner, or full-time magistrate after leaving an elected term on the bench to be granted to a participating judge in the 1977 judges' retirement system if certain conditions are met. Directs the pension management oversight commission to study the issues of imple-

menting a judges' defined contribution plan, inequities between the 1977 and the 1985 judges' retirement system, and identify ways that benefits provided by these systems may be aligned.



Family Court Grant Applications Now Available

Loretta Oleksy
Indiana Court Times

The Division of State Court Administration is now accepting applications from counties interested in joining the Family Court Project. The project was initiated in 1999 as a cooperative effort between the General Assembly and the Indiana Supreme Court. Its purpose is to develop common sense models to better serve children and families in our courts.

The core component of the Family Court Project is judicial coordination of multiple cases involving the same family. This coordination avoids inconsistent

orders for families and promotes more informed decision-making. While all projects must include some type of judicial coordination of multiple case families, programming has expanded to include non-adversarial dispute resolution and other programming for high-risk, low-income, and/or *pro se* families.

Eligible courts must submit an application to the Division of State Court Administration by August 1, 2007. Applicants must provide a description of the proposed use of the funds and a budget detail of how the funds will be

used. County matching funds are not required for this grant; however, the family court grant funds are intended to serve as seed money. Successful applicants will be encouraged to develop other sources of funding as the family court grant is phased out over a period of four to six years.

Smaller counties are encouraged to share resources by forming multiple-county projects. Counties that want to form a multiple-county family court project should file only one application. The application form and any attachments from the individual counties should be

filed together in one packet.

Family Court Project Manager Loretta Oleksy is available to walk applicants through the critical components of the application and assist them throughout the application process. Ms. Oleksy will work with each applicant county by phone, e-mail, or in person whenever feasible. Applications are available on the Family Court Website at www.in.gov/judiciary or by contacting Loretta Oleksy at 317.233.0784 or loleksy@courts.state.in.us.

ICLEO

continued from page 4

events will all take place the week of August 25 through August 31.

The first CLEO summer institute was conducted on the campus of the Indiana University School of Law-Bloomington. As a testament to how far the program has come in the last ten years, consider that the preparation and planning for the first program was completed over a six-week time frame; and today the summer institute planning now takes place over the course of approximately

six months. The CLEO program has been fortunate to have the support and participation of outstanding professors. Indiana University Bloomington Torts Professor Donald Gjerdingen is a stellar example. He was part of the teaching staff of the first institute and continues to provide leadership and moral support the program.

A decade later, 30 new fellows are poised to begin their Indiana CLEO journey at Notre Dame. This year's incoming class is comprised of 17 women and 13 men. The program includes 24 participants who



are native Hoosiers.

The mandatory six-week summer institute began June 4 and will conclude with the traditional closing banquet July 14. During the summer institute, students will be exposed to classes in Legal Writing, Criminal Law, Contracts and Labor and Employment Law. In the fall, 18

of the students will attend Indiana University School of Law-Indianapolis, 6 will attend Indiana University School of Law-Bloomington, five will attend Valparaiso University Law School and one will attend Notre Dame Law School.

There have been approximately 200 CLEO graduates from the four Indiana law schools since 1997. We hope it will continue to provide Indiana with individuals possessing brilliant legal minds who have a total commitment to our state and who are a reflection of the people they serve.

Court Awards CMS Contract to Tyler Technologies

Live Field Testing Underway in Two Counties

Cindy Collier
Indiana Court Times

The Indiana Supreme Court selected Tyler Technologies, Inc., to provide Indiana trial courts and clerks with a statewide, connected-case management system (CMS). Tyler was chosen following a competitive, public procurement and was recommended by three separate review panels.

The Indiana Supreme Court's highest technology priority is to provide courts and clerks with a statewide case management system. More than 1.5 million cases are filed in Indiana courts each year. Hoosier law enforcement officers, attorneys, government agencies and citizens need quicker access to this vital information.

Field-testing is underway and the rollout of the CMS

will take place in multiple phases over the next 4-5 years. Contract payments will be made as the system is installed statewide.

Initial licensing, testing, configuration, training, software and other fees will be approximately \$11 million. There will be a statewide rollout in all 92 counties and the total project, including staff time, will cost approximately \$70 million.

Tyler has successfully developed and installed a statewide 21st Century CMS for the Minnesota courts called "Odyssey Case Manager." Field-tests are being conducted to see if any changes are necessary in order for Odyssey to meet the unique needs and requirements of Indiana. Several Indiana courts are being used as

continued on page 10

E-Tickets Project to Standardize Information

Mary L. DePrez
Indiana Court Times

If you've ever been pulled over by a police officer - ticket book in hand - you probably never thought there was any inefficiency involved with the process. Perhaps you even thought the whole process was far too efficient. For anyone on the other side who has had to write or process those tickets, however, you know that things could be better.

Every year, Indiana law enforcement officers issue more than 700,000 traffic citations. Each one is written by hand. There is no imposed uniformity and the format varies across counties.

This is all about to change - saving the justice system thousands of hours of data entry. Under the new system, every ticket will collect the same vital information. A complete, accurate, timely and uniform court record will be the end result of a project that has been in the works for years.

The Division of State Court Administration's Judicial Technology and Automation Committee

(JTAC) is working with state and local law enforcement partners. Training is underway on a new system that will allow officers in the field to electronically record citation information and immediately transmit it to the appropriate authorities.

This new system is called the electronic Citation and

mation available. eCWS will give officers more time to do their jobs," said Mary DePrez, JTAC's Director and Counsel for Trial Court Technology.

JTAC, the Bureau of Motor Vehicles, Indiana Criminal Justice Institute, Indiana State Police, Indiana Department of Natural Re-

more serious criminal violation.

Officers in the field will utilize a hand-held scanner to read the driver's license and vehicle registration. A new citation will be generated in the eCWS system with the driver information automatically entered. The officer records the appropri-



eCWS will improve data accuracy and reduce paperwork, giving officers more time to patrol Hoosier roadways.

Warning System, eCWS. It will eliminate the need for redundant manual data entry, drastically reduce administrative work, and increase the safety of Hoosier roadways by quickly identifying dangerous drivers.

"The eCWS system cuts the time spent preparing and processing tickets, while giving law enforcement officers, prosecutors and courts electronic access to the most accurate, up-to-date infor-

mation available. eCWS will give officers more time to do their jobs," said Mary DePrez, JTAC's Director and Counsel for Trial Court Technology.

In addition to transmitting citation information to appropriate law enforcement, courts, state and federal agencies, eCWS will also transfer the required data fields to a probable cause affidavit form for officers to complete when there is a

ate offense and court information and prints out a paper ticket.

In cooperation with the U.S. Department of Transportation, eCWS will produce a Uniform Traffic Ticket (UTT) that includes a designation for a holder of a Commercial Driver License. Because they will have access to more timely data, officers will be better able to appropriately address situations.

Microfilming Records Benefits State and Genealogists

*John Newman
Indiana Court Times*

In the mid 1930s, the Family History Library of the Genealogical Society of Utah began a program of microfilming state and county level government records. The information preserved included birth records, last wills and testaments, probate matters, and other related records. In 1979 the Society extended their program into Indiana. The Family History Library, through the Indiana Commission on Public Records, agreed to microfilm probate records, probate order books, will records, marriage records, and other ledgers having high genealogical value for the Library. They recorded documents back to the 1920 cut-off date. The Library agreed to meet Indiana's microfilm-

ing standards to provide microfilm that is legally acceptable and legible. The master negative of this film will be stored in a secure vault in Utah.

In 1986, the Indiana Supreme Court created an Information Management Section, under its Division of State Court Administration. In 1996, the Family History Library agreed to film complete civil records, including civil order books, for all Indiana courts in existence in 1920. The Indiana Commission on Public Records is responsible for the inventory of non-court records, and



Microfilming helps preserve paper records and prevent storage rooms from looking like this.

the Information Management Section is responsible for the inventory of court records. The two responsible entities have begun the microfilm process in 83 of Indiana's 92 coun-

ties. The goal is to complete microfilming in all counties by late 2008.

The results have been impressive on sheer volume alone. They have filmed around 15,000 ledgers, including almost 20 million individual pages.

Local trial courts and clerks receive the microfilming at no cost. One county alone saved over \$100,000 when the clerk used these services rather than using a private microfilm vendor. The Family History Library, at its facility in Salt Lake City, makes available these microfilms at no charge to anyone researching family history. The Indiana State Library makes available for research a free security copy of the film from which prints can be made.

CONTRACT

continued from page 8

"proof-of-concept" (POC) laboratories where Indiana court and clerk staffs can test Odyssey. The clerk, judges, and staff in Monroe County and the Washington Township (Marion

County) Small Claims Court have generously volunteered to be POC Labs.

Much work remains, but everyone involved with the preliminary field-testing is pleased that the system works as expected at this

stage of development.

Over the next several months there will be additional tests conducted in the POC Labs in both Monroe County and Marion County.

For more information on the Indiana Supreme Court's Case Management System project, use this link <http://www.in.gov/judiciary/jtac/programs/cms.html>.

GAL/CASA Programs Receive Funding Increase

Leslie Dunn
Indiana Court Times

In 2005, the General Assembly changed the law to require juvenile courts to appoint a guardian ad litem or a court appointed special advocate for every child in every case in which the child is alleged to be a child in need of services ("CHINS") due to abuse and/or neglect. However, the GAL/CASA programs have not had enough funding to be able to provide an advocate for every child involved in CHINS proceedings. As a result, in the last session, the General Assembly appropriated an additional \$2.1 million dollars to be distributed to local GAL/CASA programs so they can advocate for more children in court. The Indiana Supreme Court, Division of State Court Ad-

ministration, operates the State Office of GAL/CASA, which distributes the funding to local, volunteer based GAL/CASA programs. Funds are distributed based on a statutory formula.

Previously, the statutory formula was based on the number of CHINS cases in each county in the prior fiscal year, as determined by the Office of Family and Children. However, during the last session, the statute that outlines the formula, I.C. 33-24-6-5, was amended. The statute now requires that the formula be based on the number of CHINS cases in each county in the

preceding calendar year as reported by the judges in the Quarterly Case Status Reports ("QCSR") that are filed with the Division of State Court Administration.



The model for CASA was established in Seattle, Washington, in 1976.

T h e Q C S R reports provide a more accurate basis for the formula because they include all CHINS

filings. The data from the office of family and children included only those cases that were actually adjudicated CHINS cases. However, there are a significant number of CHINS cases that never reach the adjudication stage. Since the GAL/CASA is appointed at the initial hear-

ing, they are involved with the cases from the beginning. The change in the formula will ensure that GAL/CASA programs receive funding based on all the cases they serve, not just those that reach adjudication.

Indiana has volunteer based GAL/CASA programs in 65 of its 92 counties. With the increase in funding, there will be more money available to distribute to counties to start up new GAL/CASA programs or to expand existing programs. If you are interested in starting a volunteer based GAL/CASA program in your community, please contact Leslie Dunn at the State Office of GAL/CASA, Indiana Supreme Court, Division of State Court Administration. She can be reached at lrogers@courts.state.in.us or 1-800-542-0813.

2007 Newly Elected Judges



Jose Salinas
Marion Superior



Elizabeth Tavitas
Lake Superior



Joseph D. Trout
Clay Circuit Court



Heather Welch
Marion Superior



Dean A. Young
Blackford Circuit

This section has been reprinted to correctly identify the jurisdictions of the judges shown above.

Indiana's Appointed Judicial Officers

Who are they and how do they affect a trial court's weighted caseload?

Lilia G. Judson
Indiana Court Times

We know that hearings, trials and even decisions in Indiana's courts are often handled by someone other than the regularly elected or appointed judge of the court. That "other" person could be a magistrate, commissioner, referee, senior judge, judge pro tempore, or one of several other "appointed judicial officer" positions authorized by statute or court rule. With 312 regular judges of trial courts of record and 171 regularly employed "appointed judicial officers" in the same trial courts of record, there is a ratio of approximately 2 to 1 - one regularly employed appointed judicial officer for every two regular judges. These numbers do not include the temporary judicial officers such as senior judges, judges pro tempore, and temporary judges. This article is intended to explain how all these positions fit within Indiana's Weighted Caseload Measures (WCM) system.

The basis for judicial authority follows from the Constitution of Indiana,

which states that the judicial authority of the state shall be vested in one Supreme Court, one Court of Appeals, Circuit Courts and such other courts as the General Assembly may establish. In addition to statutory courts, the legislature has created the positions of magistrates, commissioners, referees and some others who can, pursuant to statute, hear cases. Although IC 33-23-5-1 states that a magistrate may enter a final order and impose a sentence, this statute has not been tested under the Supreme Court's prior holding that only a judge can enter final judgment.

State funds pay for the salaries of the 55 general magistrates and part of the salaries of the 26 juvenile magistrates. All magistrates serve full time. The remain-



A host of full-time and temporary officers compose Indiana's judicial system

ing 90 appointed judicial officers serve full or part-time, and all are paid through county funds. Each court that employs an appointed judicial officer must complete and send to the Division of State Court Administration a form notifying the Supreme Court of the employment of such an officer. The form and a list of the appointed judicial officers are available on the judicial website at www.in.gov/judiciary/admin.

The most comprehensive and helpful information about the appointed judicial officers is found in the Appointed Judicial Officers Deskbook, recently updated by a special task force appointed by the Supreme Court and headed by Senior Judge Richard Payne. The Deskbook contains an excellent introduction on the history, statutory and rule authority for each of these positions, case law, and helpful practices and forms. It is available through the Indiana Judicial Center.

For purposes of Indiana's WCM system, appointed judicial officers are classified in two groups: those who are regularly employed by a court and those who serve occasionally on a temporary basis.

Indiana's WCM system is based on two factors: available judicial time and the number of cases filed. The system establishes a uniform, statewide method for comparing trial court caseloads by ascribing relative "weights" or "counts" to the different types of cases.

continued on page 13

OFFICERS

continued from page 12

The Indiana Supreme Court has defined 35 case types that can be filed in our trial courts. Without a WCM system, each case type, whether a murder or infraction, would receive a weight or count of “one.” A WCM system provides a basis for comparison and allows courts and court policy makers to determine what resources are necessary to handle the courts’ caseloads.

The Indiana Judicial Conference Judicial Administration Committee (the committee) conducted the first WCM study, which involved more than 200 judges, magistrates, commissioners and referees who maintained time records. During the first phase of the study, the committee developed a list of specific case actions that occur before, during and after a case. The study included pretrial motions, jury trials, research, hearings, and post-judgment actions such as probation revocation, motions for modification of support, and retrials. The time records established how long each of these particular actions took. The last

phase involved auditing thousands of randomly selected case files, some already closed for many years and others still active. The audit revealed how frequently each of the specific case actions occurred in particular case types. A consultant then analyzed all the data to determine, based on a statewide average, how frequently these actions ac-

hour workweek for things such as vacations, illness, administrative responsibilities, education, community activities, and public outreach. The study was updated in 2002 and is currently undergoing an update and revalidation.

The WCM reports also provide a “utilization” figure for each court.

another cadre of judicial officers serves on a temporary basis.

This group includes:

Judges Pro Tempore
Senior Judges
Temporary Judges
Private Judges
Special Judges
Special masters pursuant to Trial Rule 53

Because of their temporary status, the foregoing appointed judicial officers are not automatically counted as a judicial resource for weighted caseload statistical purposes. The Quarterly Case Status Reports elicit information about these positions in each court and statistical allowances can be made for these “temporary” increases (or decreases, in the case of special judge service outside the reporting court) in the total judicial resources. However, getting complete and accurate information from court staffs about the number of days temporary judicial officers serve has been difficult.

We continue to work on improving the reporting process so that courts can report and we can reflect even the temporary shifts due to service by temporary appointed judicial officers.

The appointed judicial officers whose time is calculated in the total resources available to a court include:

- General Magistrate
 - Juvenile Magistrate
 - Probate Commissioners
 - Commissioners and Master Commissioners
 - Title IVD commissioners, hearing examiners and masters.
 - Probate Referees
 - Small Claims referees
 - Other referees
 - Allen County hearing officer
-

crued in particular case types. The data resulted in the establishment of statewide average of a relative time, in minutes, for each type.

The committee also established an average number of minutes available to a judicial officer in a calendar year for handling case-related activities. This number was calculated by deducting time from the average 40-

This figure is the result of dividing the total amount of available judicial time by the total time assigned to all the cases filed in that court. The amount of time a regularly employed appointed judicial officer works in a particular court is added to the total judicial resource available for that court.

In addition to the magistrates, commissioners and referees listed in blue above,

Our goal is to foster communications, respond to concerns, and contribute to the spirit and pride that encompasses the work of all members of the judiciary around the state. We welcome your comments, suggestions and news. If you have an article, advertisement, announcement, or particular issue you would like to see in our publication, please contact us.

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Division of State Court Administration

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Please Circulate to Co-workers

**This newsletter reports on
important administrative matters.
Please keep for future reference.**

“There is hardly a political question in the United States which does not sooner or later turn into a judicial one.”

- Alexis de Tocqueville

